

PUBLIC NOTICE

**US Army Corps
of Engineers®**

NOTICE OF AVAILABILITY FOR
A FINAL SEIS/SEIR

LOS ANGELES DISTRICT

Public Notice/Application No.: 2004-00917-SDM

Review Period: November 28, 2008 through December 29, 2008

Project Manager: Spencer D. MacNeil, D.Env. (805) 585-2152 spencer.d.macneil@usace.army.mil

Applicant

Port of Los Angeles/Los Angeles Harbor Dept.
Engineering Division
Antonio V. Gioiello, Chief Harbor Engineer
P.O. 151
San Pedro, California 90733-0151

Contact

Port of Los Angeles/Los Angeles Harbor Dept.
Environmental Management Division
Dr. Ralph G. Appy, Director
(310) 732-3497

Location

The proposed project is primarily located on Pier 400 and Pier 300 in the Outer Harbor in the Port of Los Angeles, Los Angeles County, California (Berth 408 on Pier 400: latitude 33°42'57", longitude -118°15'6") (Figure 1).

Activity

The Los Angeles Harbor Department (LAHD) proposes to impact waters of the U.S. by installing an estimated 136 steel and concrete piles, with rock around the base of 42 outer steel piles, to support a new wharf at Berth 408 on Face C of Pier 400 in the Outer Harbor, and by constructing over-water oil pipelines, associated with the Pacific L.A. Marine Terminal LLC Crude Oil Terminal in the Port of Los Angeles. For more activity information, see page 4 of this notice.

Interested parties are hereby reminded that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawings (the May 28, 2008 Army Corps of Engineers-Port of Los Angeles public notice for this project first notified the public that, among other things, an application for a Department of the Army permit had been received). Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under Section 10 of the River and Harbor Act of March 3, 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344). Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division, Ventura Field Office
ATTN: CESPL-RG-N-2004-00917-SDM
2151 Alessandro Drive, Suite 110
Ventura, California 93001

Alternatively, questions or comments can be sent electronically to: spencer.d.macneil@usace.army.mil

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, because the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the USEPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. In this case, comments are used in the preparation of a Supplemental Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- As discussed in the May 28, 2008 Army Corps of Engineers-Port of Los Angeles public notice for the proposed project, the Corps and LAHD determined a “supplemental” environmental document to the 1992 Deep Draft Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) is required. While the proposed project is consistent with the Deep Draft EIS/EIR, which addressed the construction and operation of Pier 400, the changed environmental and regulatory circumstances and the changed configuration of the current proposed project from the marine terminal configuration proposed in 1992 have led the USACE and LAHD to prepare a Supplemental EIS and Subsequent EIR, respectively. The Draft Supplemental EIS/Subsequent EIR (SEIS/SEIR) for the proposed Pacific L.A. Marine Terminal LLC Crude Oil Terminal was circulated for public comment on May 28, 2008, and comments on the above document were accepted until August 13, 2008. A public hearing was held at the Board of Harbor Commissioner Meeting Room on June 26, 2008 to give additional opportunity for the public to comment on the Draft SEIS/SEIR for this project.

A Notice of Availability for the Final SEIS/SEIR is also being published in the Federal Register. The Draft SEIS/SEIR and Final SEIS/SEIR for this project, which address several potentially significant issues, such as impacts to air quality, biological resources, water quality, and environmental justice, can be found on the Port of Los Angeles website (<http://www.portoflosangeles.org>).

Water Quality- The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board (RWQCB). Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance.

Coastal Zone Management- The proposed Project will require a federal Consistency Determination and, as a major coastal energy-related facility, is appealable to the California Coastal Commission. The District Engineer hereby requests the California Coastal Commission's concurrence or nonconcurrence that the proposed

project is consistent with the California Coastal Commission-approved Port Master Plan.

Cultural Resources- No historic resources eligible for listing in the National Register of Historic Places (NRHP) or the California Register of Historic Resources (CRHR) are recorded within the proposed project area. Furthermore, the Pacific L.A. Marine Terminal LLC Crude Oil Terminal Draft SEIS/SEIR did not identify any cultural or historic resources that would be affected by the proposed project. Moreover, the LAHD contacted the Native American Heritage Commission (NAHC) on October 1, 2004, to request information about traditional cultural properties, such as cemeteries and sacred places, in the project area. The NAHC record search of the Sacred Lands file failed to indicate the presence of Native American cultural resources in the immediate project area. A letter dated November 3, 2004 was received from the NAHC containing a list of Native American tribes and individuals interested in consulting on development projects. An attempt was made to contact each of these individuals/groups by phone in April 2008. A revised list of Native American tribes and individuals interested in consulting on development projects in this area was received from the NAHC on June 10, 2008, as part of their comments on the Draft SEIS/SEIR, and a follow-up letter was sent to these tribal contacts earlier this month. Follow-up phone calls were also made to these tribal contacts. One of the individuals contacted requested monitoring during ground disturbance on Pier 300/Terminal Island and other project sites, because of the potential for Native American cultural resources to occur throughout the project area. Given the extensive surface and subsurface disturbance throughout the project area, the Corps believes it is highly unlikely Native American cultural resources exist in the affected area. Nevertheless, the monitoring proposed by the contacted individual is consistent with Mitigation Measure (MM) CR-1a already included in the SEIS/SEIR. Based on the latest information, the Corps has made a preliminary determination that the proposed project would have no effect on cultural resources listed or eligible for listing on the National Register of Historic Places. If we do not receive a written response to the contrary from the State Historic Preservation Office during the public notice review period, we will presume that agency concurs with our preliminary no effect determination.

Endangered Species- The California least tern (*Sterna antillarum browni*), California brown pelican (*Pelecanus occidentalis californicus*), and western snowy plover (*Charadrius alexandrinus nivosus*) are known to forage in the vicinity of the proposed Project, and there is a 15-acre California least tern nesting preserve on the southeastern tip of Pier 400, which is adjacent to the proposed Tank Farm 1 area. Based on detailed biological information in the Draft and Final SEIS/SEIR, including a draft Biological Assessment, a preliminary determination was made that the proposed activity may affect California least tern and California brown pelican. The Corps initiated formal consultation under Section 7 of the Endangered Species Act (ESA) in early July 2008. Within the next few weeks, the U.S. Fish and Wildlife Service anticipates providing to the Corps either a Biological Opinion to address the action's effects on federally listed species or a letter concluding that the action is not likely to adversely affect federally listed species.

Essential Fish Habitat- In accordance with the 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act, an assessment of Essential Fish Habitat (EFH) was prepared and included in the SEIS/SEIR. The proposed Project Berth 408 at the Marine Terminal would be located within an area designated as EFH for two Fishery Management Plans (FMPs): Coastal Pelagics Plan, and Pacific Coast Groundfish Management Plan. The pipeline route from Pier 400 to Terminal Island would be located adjacent to EFH. Of the 94 fisheries management species federally managed under these plans, 19 are known to occur in the Outer Harbor near Pier 400 or near the 42-inch pipeline corridor and could be affected by the proposed project (Table 3.3-2 in the Draft SEIS/SEIR). One of the five species in the Coastal Pelagics FMP (northern anchovy) is well represented in the proposed project area, with both adults and larvae present. Pacific sardine is also common. Both species support a commercial bait fishery in the Outer Harbor. Adult jack mackerel are present and likely prey upon small northern anchovy. Adult Pacific mackerel are also fairly common throughout the Harbor. Only 2 of the 15 Pacific Groundfish FMP species (Pacific sanddab and California scorpionfish) are relatively common in the Outer Harbor.

The May 28, 2008 joint public notice of the application for a Corps permit, availability of the Draft SEIS/SEIR, and notice of the June 26, 2008 public hearing initiated EFH consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The proposed activities would temporarily impact areas designated as EFH through wharf construction, which would introduce new materials into the water and temporarily suspend sediments and increase noise. Temporary disturbances in the water during Berth 408 and temporary mooring construction would cause no substantial alteration of EFH or loss of fish in managed species as described above, including conversion of a small amount of soft bottom habitat (0.1 acre) to hard substrates (rock, piles). Construction activities at the tank farm sites and for new pipeline installation would have no direct impacts on EFH because none is present at those sites. Indirect impacts through runoff of sediments during storm events would be less than significant because such runoff would be controlled through a project-specific Storm Water Pollution Prevention Plan with Best Management Practices, such as sediment barriers and sedimentation basins. In addition, the work would be conducted in compliance with applicable permits, such as the USACE's permit and the LARWQCB's Section 401 Water Quality Certification.

On July 15, 2008, National Marine Fisheries Service (NMFS) provided a comment letter that included two conservation recommendations: one recommendation was to employ a pile driving approach that would result in lower noise levels; and the second recommendation was to monitor whether pile driving was adversely affecting fish species. LAHD added MM BIO-1.1k and modified MM NOISE-1: Noise Reduction during Pile Driving (see Final SEIS/SEIR) to address and incorporate the recommendations, and NMFS responded by electronic mail earlier this month that these changes would suffice to address EFH effects.

Public Hearing- A public hearing was held on June 26, 2008 from 6:00-8:30 PM at the Board of Harbor Commissioner Meeting Room in San Pedro, to accept comments on the adequacy of the Pacific L.A. Marine Terminal LLC Crude Oil Terminal Draft SEIS/SEIR (40 CFR Part 1506.6), as well as to acquire information or evidence, which will be considered in evaluating the proposed permit action pursuant to Section 404 of the Clean Water Act (CWA) and Section 10 of the River and Harbor Act (RHA) (33 CFR Part 327.3). This is in addition to a public scoping meeting held for the proposed project on July 8, 2004 at the Banning's Landing Community Center in Wilmington; with comments received from the scoping meeting addressed in the Draft SEIS/SEIR. No additional public hearings are scheduled for the proposed project.

Proposed Activity for Which a Permit is Required

The applicant proposes to impact waters of the U.S. by installing an estimated 136 steel and concrete piles, with rock around the base of 42 outer steel piles, to support a new wharf at Berth 408 on Face C of Pier 400 in the Outer Harbor, and by constructing over-water oil pipelines, associated with the Pacific L.A. Marine Terminal LLC Crude Oil Terminal in the Port of Los Angeles. The only permanent fill in waters of the U.S. would be the approximately 0.1 acre of rock discharged around the base of the 42 outer steel piles, which would convert soft bottom aquatic habitat to hard substrate aquatic habitat. In addition, approximately 10 acres of open water could be temporarily impacted during construction of the new wharf. Oil pipelines would be constructed and operate over waters of the U.S. along the Pier 400 causeway bridge and the Valero utility/pipe bridge, which crosses the Dominguez Channel west of the Ultramar/Valero Refinery

More details on all the project components, including those exclusively in the upland areas, are provided in the following section, as well as in the Draft and Final SEIS/SEIR for this project, which are posted on the Port of Los Angeles website (<http://www.portoflosangeles.org>).

Additional Project Information

Project Elements: The proposed project would include construction and operation of a new marine terminal at Berth 408 on Pier 400 (Marine Terminal), new tank farm facilities with a total of 4.0 million barrels (bbl) of capacity, and pipelines connecting the Marine Terminal and the tank farms to local refineries. The terminal would be operated by Pacific Los Angeles Marine Terminal, LLC under a 30-year lease from the LAHD. The proposed project would not require any dredging, as Berth 408 already has sufficient water depth (-81 ft mean lower low water) to accommodate Very Large Crude Carrier vessels (up to 325,000 deadweight tons), which would be the largest vessels expected to call at Berth 408. The proposed Project would primarily receive crude oil, partially refined crude oil, and occasional deliveries of Marine Gas Oil.

Major elements of the proposed Project evaluated in this SEIS/SEIR include:

- Construction of a new Marine Terminal designed to receive crude oil from marine vessels and transfer the oil to tank farms facilities via a new 42-inch diameter, high-volume pipeline.
- Construction of two tank farms
 - Tank Farm Site 1 would be located on Pier 400
 - Tank Farm Site 2 would be located on Pier 300 at Seaside Avenue/Terminal Way
- Construction of new pipelines to connect to existing pipeline facilities
 - The proposed project's new tank farm facilities would be connected to the existing ExxonMobil Southwest Terminal on Terminal Island, the existing Ultramar/Valero Refinery on Anaheim Street near the Terminal Island Freeway, and to other Plains pipeline systems near Henry Ford Avenue and Alameda Street via new and existing 36-inch, 24-inch, and 16-inch pipelines.
 - All new pipelines would be installed belowground, with the exception of the water crossings at the Pier 400 causeway bridge and at the Valero utility/pipe bridge that crosses the Dominguez Channel west of the Ultramar/Valero Refinery.

Proposed Special Conditions

The proposed permit would include the standard Section 10 conditions addressing work and structures in/over navigable waters of the U.S. It would also include conditions implementing NMFS' conservation recommendations and, if the USFWS determines formal ESA Section 7 consultation is required, the terms and conditions specified in their Biological Opinion.

For additional information please call Dr. Spencer D. MacNeil of my staff at (805) 585-2152. This public notice is issued by the Chief, Regulatory Division.

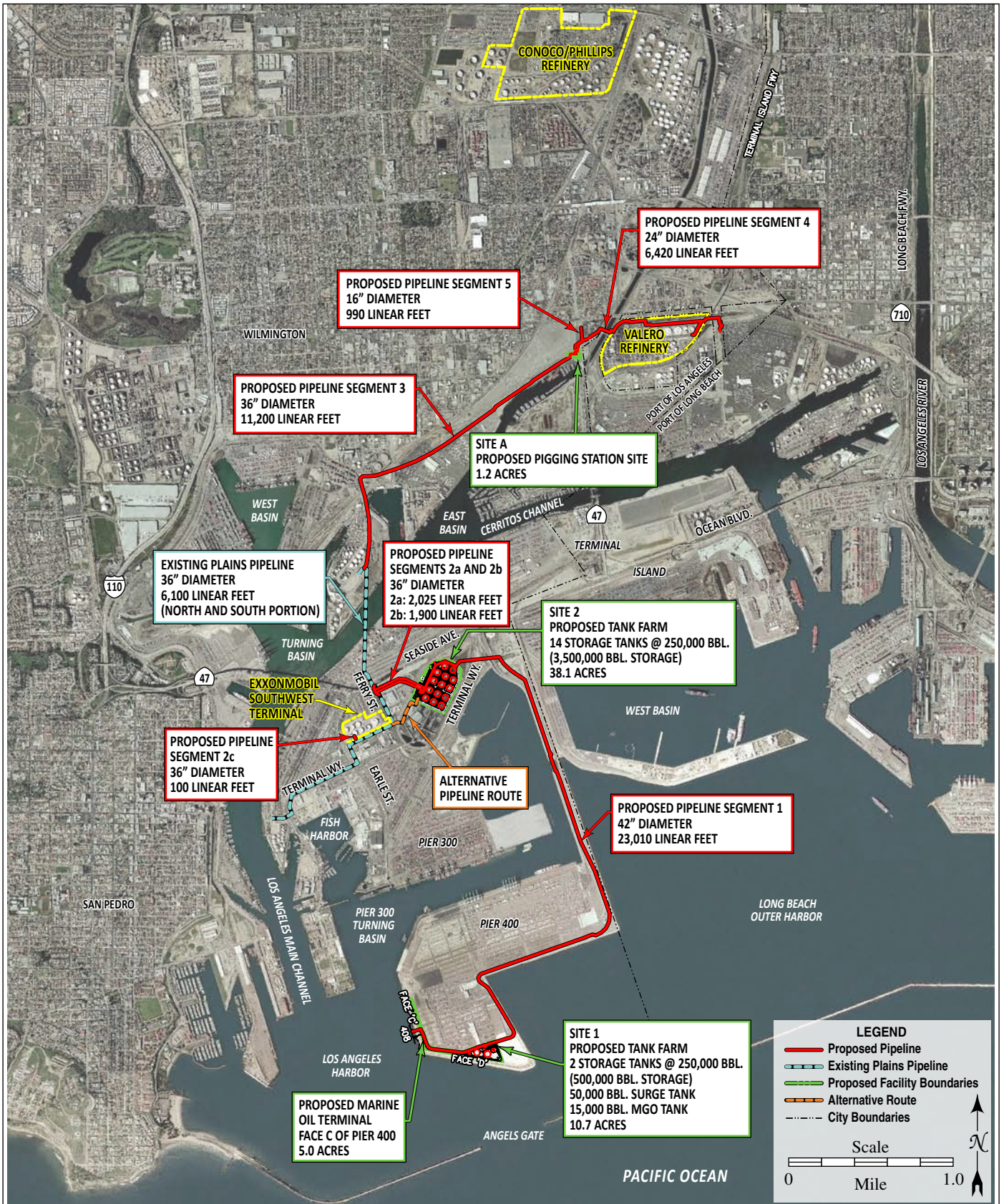


Figure 1-1. Proposed Project Site Locations (Aerial View)